

\*E-FILED 2/27/08\*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

FORD MOTOR CREDIT COMPANY, No. C 07-03301 RS

Plaintiff,

v.

CASE MANAGEMENT  
SCHEDULING ORDER

LEWIS FAMILY ENTERPRISES, INC., et al.,

Defendants.

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, a Case Management Conference was held on February 27, 2008. After considering the Case Management Statement and Proposed Order submitted by the parties and consulting with the attorneys of record for the parties and good cause appearing, **IT IS HEREBY ORDERED THAT:**

1. ALTERNATIVE DISPUTE RESOLUTION

PRIVATE MEDIATION. Pursuant to the parties' stipulation, this matter is referred to private mediation to be completed by November 3, 2008, if possible. The parties shall promptly notify the Court whether the case is resolved at the mediation.

2. DISCOVERY.

On or before **October 1, 2008**, all non-expert discovery shall be completed by the parties. Any discovery requests pursuant to Rule 33-36 and 45, F.R.Civ.P. shall be served far enough in advance so that responses to written discovery shall be due, as provided in said rules, no

1 later than the discovery completion date. All depositions shall be concluded by the discovery  
2 completion date.

3 Discovery shall be limited as follows: (a) **ten (10)** non-expert depositions per party;  
4 (b) **thirty-five (35)** interrogatories per party, including all discrete subparts; (c) a reasonable number  
5 of requests for production of documents or for inspection per party; and (d) **fifteen (15)** requests for  
6 admission per party.

7 3. **EXPERT WITNESSES.** The disclosure and discovery of expert witness opinions  
8 shall proceed as follows:

9 A. On or before **November 3, 2008**, plaintiff shall disclose expert testimony and  
10 reports in accordance with Rule 26(a)(2), F.R.Civ.P.

11 B. On or before **November 17, 2008**, defendants shall disclose expert testimony and  
12 reports in accordance with Rule 26(a)(2), F.R.Civ.P.

13 C. On or before **January 16, 2009**, all discovery of expert witnesses pursuant to  
14 Rule 26(b)(4), F.R.Civ.P. shall be completed.

15 4. **PRETRIAL MOTIONS.** All pretrial motions must be filed and served pursuant to  
16 Civil Local Rule 7. All pretrial motions shall be **heard** no later than **April 29, 2009**.

17 5. **PRETRIAL STATEMENTS.** At a time convenient to both, counsel shall meet and  
18 confer to discuss preparation of a joint pretrial statement and on or before **May 25, 2009**, counsel  
19 shall file a Joint Pretrial Statement in accordance with the attached Standing Order re: Pretrial  
20 Preparation.

21 6. **PRETRIAL CONFERENCE.** The final pretrial conference will be held on **June 3,**  
22 **2009 at 2:30 p.m.**, in Courtroom 4 at the United States Courthouse, 280 S. First Street, San Jose,  
23 California. Each party or lead counsel who will try the case shall attend personally. Counsel shall  
24 comply with the attached Standing Order re: Pretrial Preparation.

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1       7.     TRIAL DATE.   Jury trial shall commence on **June 15, 2009 at 9:00 a.m.**, in  
2     Courtroom 4, United States Courthouse, San Jose, California.

## IT IS SO ORDERED.

4 || DATED: February 27, 2008

  
RICHARD SEEBORG  
United States Magistrate Judge

# United States District Court

For the Northern District of California

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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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9 STANDING ORDER FOR FINAL PRETRIAL CONFERENCE  
10 IN JURY CASES BEFORE MAGISTRATE JUDGE RICHARD SEEBORG  
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- 13 A. **Required Meeting and Disclosure Prior to Pretrial Conference:** At  
14 least 21 days before the final Pretrial Conference, lead counsel who will  
try the case shall meet and confer with respect to:
- 15 1. Settlement of the case;  
16 2. Preparation and content of the Joint Pretrial Statement and Order  
17 in accordance with this Standing Order;  
18 3. Preparation and exchange of pretrial materials to be served and  
19 lodged pursuant to Rule 26(a)(3) F.R. Civ. P. and this Standing  
Order; and,  
20 4. Clarifying and narrowing the contested issues for trial in order to  
achieve a just, speedy and efficient determination of the case.
- 21 B. **Joint Pretrial Statement and Order:** At least ten (10) days before the  
22 Pretrial Conference, unless otherwise ordered, the parties shall lodge  
23 and serve a Joint Pretrial Statement and Proposed Order containing the  
24 following information:  
25 1. **Substance of the Action.** A brief description of the parties, the  
substance of claims and defenses that remain to be decided, and  
the operative pleadings that raise the issues;  
26 2. **Relief Prayed.** A detailed statement of all relief claimed,  
particularly itemizing all elements of damages claimed;  
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United States District Court  
For the Northern District of California

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- 2       3. Amendments or Dismissals. A statement of proposed  
3       amendments to pleadings or dismissals of parties, claims or  
3       defenses;
- 4       4. Undisputed Facts. A plain and concise statement of all relevant  
4       facts to which the parties will stipulate for incorporation into the  
4       trial record without the necessity of supporting testimony or  
4       exhibits. The parties shall exercise good faith in stipulating to  
4       facts that are not reasonably disputable;
- 5       5. Disputed Factual Issues. A plain and concise list of the issues of  
5       fact that are contested and remain to be litigated at trial;
- 6       6. Agreed Statement. A statement assessing whether all or part of  
6       the action may be presented upon an agreed statement of facts;
- 7       7. Stipulations. A statement of proposed stipulations or agreements  
7       that will expedite the presentation of evidence;
- 8       8. Witnesses to be Called. A list of all witnesses likely to be called  
8       at trial, other than solely for impeachment or rebuttal, together  
8       with a brief statement following each name describing the  
8       substance of the testimony to be given. No party shall be  
8       permitted to call any witness in its case in chief that is not  
8       disclosed in its pretrial statement without leave of court for good  
8       cause;
- 9       9. Exhibits, Schedules and Summaries. A list of all documents and  
9       other items to be offered as exhibits at the trial, other than solely  
9       for impeachment or rebuttal, with a brief statement following  
9       each, describing its substance or purpose and the identity of the  
9       sponsoring witness;
- 10      10. Disputed Legal Issues. Without extended legal argument, a  
10      concise statement of each disputed point of law concerning  
10      liability or relief, citing supporting statutes and decisions;
- 11      11. Pending Motions or Matters. A statement of any motions or  
11      matters that must be resolved prior to trial;
- 12      12. Bifurcation, Separate Trial of Issues. A statement of whether  
12      bifurcation or a separate trial of specific issues is feasible and  
12      desired;
- 13      13. Estimate of Trial Time. An estimate of the number of hours or  
13      days needed for the trial; and,
- 14      14. Miscellaneous. Any other matters that will facilitate the just,  
14      speedy and efficient determination of the action.

1                   **C.     Binding Effect of the Joint Pretrial Statement and Order:** The Joint  
2                   Pretrial Statement and Order described above shall recite, directly  
3                   above the signature lines of each party, the following:

4                   The foregoing admissions having been made by the parties, and the  
5                   parties having specified the foregoing issues of fact and law remaining  
6                   to be litigated, this order shall supplement the pleadings and govern the  
7                   course of trial of this cause, unless modified to prevent manifest  
8                   injustice.

9                   **D.     Preparation For Trial**

10                  1.     Exhibits:

- 11                  a.     At least (10) days before the final Pretrial Conference, the  
12                   parties shall exchange copies of all exhibits, summaries,  
13                   charts, and diagrams to be used at trial other than solely for  
14                   impeachment or rebuttal.
- 15                  b.     Each exhibit shall be premarked for identification. Counsel  
16                   shall meet and confer and reach agreement upon a method  
17                   for marking exhibits (for example, Plaintiff shall use  
18                   numbers and Defendant shall use letters, or Plaintiff shall  
19                   use numbers 100-199 and Defendant shall use numbers  
20                   200-299, etc.).
- 21                  c.     Unless otherwise ordered, at least five (5) days prior to the  
22                   commencement of trial the parties shall deliver three sets  
23                   of all premarked exhibits contained in three ring binders to  
24                   the judge's deputy clerk.
- 25                  d.     No party shall be permitted to offer any exhibit at trial that is  
26                   not disclosed in its pretrial statement without leave of court  
27                   for good cause, unless it is offered solely for impeachment  
28                   or rebuttal.

29                  2.     Motions in Limine: Unless otherwise ordered, the parties shall  
30                   file and serve any motions in limine at least ten (10) days before  
31                   the final Pretrial Conference, and any oppositions thereto at least  
32                   three (3) days before the final Pretrial Conference. Ordinarily,  
33                   these motions will be deemed submitted without oral argument.

34                  3.     Deposition and Discovery Designations: Unless otherwise  
35                   ordered, at least five (5) days before the commencement of trial,  
36                   the parties shall file and serve any excerpts of deposition  
37                   testimony or other discovery to be offered at trial, other than  
38                   solely for impeachment or rebuttal. (A copy of the designated  
39                   deposition testimony with page and line references, or the  
40                   interrogatory response or admission shall be provided). Any  
41                   objections to the use of designated excerpts and any counter-  
42                   designations of deposition testimony shall be filed and served  
43                   prior to the commencement of trial.

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2 4. Jury Materials:

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4 a. Unless otherwise ordered, at least five (5) days prior to the  
5 pretrial conference, the parties shall file and serve:  
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7 (1) Jury Voir Dire Questions;  
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9 (2) Proposed Jury Instructions; and  
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11 (3) Proposed Jury Verdict Forms.  
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13 b. Ordinarily, the court will give the standard preliminary jury  
14 instructions contained in the Model Jury Instructions of the  
15 Ninth Circuit prior to opening statements and will give the  
16 standard closing instructions in the Model Jury Instructions  
17 of the Ninth Circuit before closing arguments.  
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19 c. As to substantive case specific instructions, the parties  
20 shall meet and confer and submit jointly an agreed set of  
21 instructions, using the Model Jury Instructions of the Ninth  
22 Circuit where appropriate. In the event the parties are  
23 unable to agree to the language of a particular instruction,  
24 the objecting party shall submit a written objection or an  
25 alternative proposed instruction placed in sequence  
26 immediately following the disputed instruction. The joint set  
27 of jury instructions shall be submitted in hard copy as well  
28 as via email to [bernie\\_kunkel@cand.uscourts.gov](mailto:bernie_kunkel@cand.uscourts.gov).
5. Trial Briefs: Trial briefs are optional, but any party wishing to file  
a trial brief must do so not less than five (5) days prior to the  
commencement of trial.

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19 IT IS SO ORDERED.  
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21 DATED: October 23, 2001  
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28 /s/ Richard Seeborg  
RICHARD SEEBORG  
United States Magistrate Judge

1 **THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER WAS ELECTRONICALLY  
2 PROVIDED TO:**

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10  
11 Counsel are responsible for distributing copies of this document to co-counsel who have not  
12 registered for e-filing under the court's CM/ECF program.

13 Dated: February 27, 2008

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15 /s/ BAK  
16 Chambers of Magistrate Judge Richard Seeborg  
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